

Exhibit A

1 Kevin J. Curtis, WSBA No. 12085
2 WINSTON & CASHATT, LAWYERS, a
3 Professional Service Corporation
4 601 W. Riverside, Ste. 1900
5 Spokane, WA 99201
6 Telephone: (509) 838-6131

Received

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NEWMAN | DUWORS

Charles L. Babcock IV (*admitted pro hac vice*)
cbabcock@jw.com
Texas Bar No. 01479500
William J. Stowe (*admitted pro hac vice*)
wstowe@jw.com
Texas Bar No. 24075124
JACKSON WALKER L.L.P.
1401 McKinney Street
Suite 1900
Houston, Texas 77010
(713) 752-4360 (telephone)
(713) 308-4116 (facsimile)

Attorneys for Defendants International Data
Group, Inc., CXO Media, Inc. and Steve Ragan

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RIVER CITY MEDIA, LLC, a Wyoming
limited liability company, MARK
FERRIS, an individual, MATT FERRIS,
an individual, and AMBER PAUL, an
individual,

Plaintiffs,

vs.

No. 2:17-cv-105-SAB

DEFENDANT CXO MEDIA, INC.'S
OBJECTIONS AND RESPONSES TO
PLAINTIFFS' FIRST SET OF
INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
CXO MEDIA, INC.

DEFENDANT CXO MEDIA, INC.'S OBJECTIONS
AND RESPONSES TO PLAINTIFFS' FIRST SET OF
INTERROGATORIES AND REQUESTS FOR
ADMISSION
PAGE 1

Winston & Cashatt
A PROFESSIONAL SERVICE CORPORATION
1900 Bank of America Financial Center
601 West Riverside
Spokane, Washington 99201
(509) 838-6131

1 KROMTECH ALLIANCE
2 CORPORATION, a German corporation,
3 CHRIS VICKERY, an individual, CXO
4 MEDIA, INC., a Massachusetts
corporation, INTERNATIONAL DATA
5 GROUP, INC., a Massachusetts
corporation, and STEVE RAGAN, an
individual, and DOES 1-50,

6 Defendants.
7

8 Defendant CXO Media, Inc. ("Defendant" or "CXO") serves these Objections and
9 Responses to Plaintiffs River City Media, LLC's ("RCM"), Mark Ferris', Matt Ferris',
10 and Amber Paul's (collectively, "Plaintiffs") First Set of Interrogatories and Requests for
11 Production as follows:
12

13 **A. GENERAL OBJECTIONS**

14 Defendant generally objects to the Requests to the extent that they call for
15 information protected by the attorney-client privilege, work-product doctrine, or any
16 other privilege protected by law. Defendant's production of privileged information or
17 materials, if any, is inadvertent and does not constitute waiver of any privilege. See Fed.
18 R. Civ. P. 26(b)(5)(B).

20 Defendant's objections and responses are based on all information readily
21 available to Defendant at this time, and may be amended, supplemented, or corrected to
22 state an objection or response that is currently inapplicable or unknown after reasonable
23

1 inquiry. Defendant reserves its right to amend, supplement, or correct its objections and
2 responses if and when appropriate. See Fed. R. Civ. P. 26(e)(1).

3 No response to a Request is intended to indicate that Defendant agrees with any
4 explicit or implicit characterization of the facts, events, circumstances, and/or issues in
5 the Requests, or that any such characterization is relevant to this lawsuit or any other
6 action or proceeding.

7 Defendant objects to the Requests seeking production of confidential or other
8 sensitive information or materials. Should the parties enter into an agreement regarding
9 treatment of confidential documents and information, Defendant will supplement with
10 appropriately-designated documents and information.

11 These General Objections apply to Defendant's responses to each and every
12 Request whether or not expressly incorporated.

13 **OBJECTIONS AND RESPONSES TO SPECIFIC REQUESTS**

14 **REQUEST FOR PRODUCTION NO. 1:** Produce all Documents related to CXO
15 Media's corporate structure, including all subsidiaries, parent companies, holding
16 companies, and *any* company holding more than a 10% interest in CXO Media.

17 **RESPONSE:** CXO objects to the portion of this Request that asks CXO to
18 produce all documents related to its "corporate structure" as it is vague and overly broad.
19 CXO also objects on the ground that this Request calls for confidential and
20 commercially-sensitive information. Should the parties enter into an agreement

1 regarding treatment of confidential documents, Defendant will supplement with
2 appropriately-designated documents.

3 **REQUEST FOR PRODUCTION NO. 2:** Produce all Documents related to CXO
4 Media's executive leadership team (meaning all managers, C-suite executives,
5 and/or corporate officers), including the name, title, and employment history for
6 each of the following individuals:

- (a) Brian Glynn
 - (b) Bob Bragdon
 - (c) Greg Pinsky

RESPONSE: CXO objects to this Request on the ground that it is overly broad. Subject to and without waiving the foregoing, and subject to and without waiving its general objections, CXO will produce responsive, redacted, non-privileged documents relating to the name, title, and employment history for the listed individuals and a chart listing board-elected officers of CXO.

REQUEST FOR PRODUCTION NO. 3: Produce all Documents related to CXO Media's relationship with IDG, Inc.

RESPONSE: CXO objects to this request on the ground that it is overly broad and vague as to what is meant by “IDG, Inc.” and whether by that term Plaintiffs are referring to co-Defendant International Data Group Inc. CXO also objects to this request on the ground that it is overly broad and also vague as to “relationship.” CXO also objects on the ground that this Request calls for confidential and commercially-sensitive information. Should the parties enter into an agreement regarding treatment of confidential documents, Defendant will supplement with appropriately-designated documents.

1 **REQUEST FOR PRODUCTION NO. 4:** Produce all Documents related to
2 CXO's advertising and marketing of CXO's media properties in the state of
3 Washington.

4 **RESPONSE:** CXO objects to this request on the ground that it is vague as to what
5 is meant by "CXO's media properties." CXO also objects to this request on the ground
6 that it is overly broad and directed to general jurisdiction even though (1) the Court's
7 Order (ECF No. 60 at 4) specifically states that "Plaintiffs are only relying on specific
8 jurisdiction"; (2) Plaintiffs' counsel expressly disclaimed general jurisdiction at the
9 hearing on CXO's Motion to Dismiss; and (3) Plaintiffs do not allege general jurisdiction
in their Complaint.

10 **REQUEST FOR PRODUCTION NO. 5:** Produce all Documents related to total
11 sales of each of CXO Media's products or services, including subscriptions or
12 memberships to magazines or news sites, whether print or online, in the United
13 States generally and to Washington residents specifically.

14 **RESPONSE:** CXO objects to this request on the ground that it is directed to
15 general jurisdiction even though (1) the Court's Order (ECF No. 60 at 4) specifically
16 states that "Plaintiffs are only relying on specific jurisdiction"; (2) Plaintiffs' counsel
17 expressly disclaimed general jurisdiction at the hearing on CXO's Motion to Dismiss;
18 and (3) Plaintiffs do not allege general jurisdiction in their Complaint. CXO also objects
19 to this Request on the ground that it is overly broad.

20 **REQUEST FOR PRODUCTION NO. 6:** Produce all Documents related to CXO
21 Media's income derived from advertising on its websites to Washington state
22 residents.

23 **RESPONSE:** CXO objects to this request on the ground that it is overly broad
24 and directed in part to general jurisdiction even though (1) the Court's Order (ECF No.

1 60 at 4) specifically states that "Plaintiffs are only relying on specific jurisdiction"; (2)
2 Plaintiffs' counsel expressly disclaimed general jurisdiction at the hearing on CXO's
3 Motion to Dismiss; and (3) Plaintiffs do not allege general jurisdiction in their Complaint.
4 CXO also objects on the ground that this Request calls for confidential and
5 commercially-sensitive information. Should the parties enter into an agreement
6 regarding treatment of confidential documents, Defendant will supplement with
7 appropriately-designated documents related to income derived from advertising on the
8 specific article at issue in this suit from the www.csoonline.com website (*i.e.*, the article
9 located at <https://www.csoonline.com/article/3176433/security/spammers-expose-their-entire-operation-through-bad-backups.html>).
10

11 **REQUEST FOR PRODUCTION NO. 7:** For each Request for Admission that
12 you do not admit, produce all Documents related to or explaining your reasons for
13 not admitting each such Request for Admission.

14 **RESPONSE:** CXO objects to this request on the ground that it is overly broad.
15

16 **OBJECTIONS AND RESPONSES TO SPECIFIC INTERROGATORIES**

17 **INTERROGATORY NO. 1:** Describe each product or service You market and
18 sell to consumers in the United States.

19 **RESPONSE:** Subject to and without waiving CXO's general objections, CXO
20 states that it operates the websites www.csoonline.com and www.cio.com and CIO
21 Executive Council, as well as various newsletters (identified in response to Interrogatory
22 No. 2 below) and a digital magazine called CIO Digital Magazine. CXO sells advertising
23 on the aforementioned websites. CXO also sells its Demand Generation services, which
24 provides names and contact information for buyers of sponsor products and services.

1 CXO also provides temporary access to email contacts for a fee. CXO also has a number
2 of other miscellaneous revenue streams (e.g., reprint revenue).

3 **INTERROGATORY NO. 2:** Describe each media property You own or operate
4 targeted at English-speaking readers.

5 **RESPONSE:** CXO objects to this interrogatory on the ground that it is vague as
6 to what is meant by "media property." Subject to and without waiving the foregoing, and
7 subject to and without waiving CXO's general objections, CXO states that if "media
8 property" is understood to mean websites, newsletters, or digital magazines, CXO owns
9 and operates the website www.csoonline.com and operates the website www.cio.com;
10 CXO operates www.securitysmart.com; CXO owns and operates CXO Update, CSO
11 Salted Hash, CIO Daily, CIO Leader and the digital magazine CIO Digital Magazine.

12 **INTERROGATORY NO. 3:** For each product or service described in
13 Interrogatory No. 2, provide the following information:

- 14 (a) The number of units sold to consumers in the United States
- 15 (b) The number of units sold to consumers in the state of Washington;
- 16 (c) The methods by which You market the product or service;
- 17 (d) The number of units sold to consumers in the United States directly
from Your online store;
- 18 (e) The number of units sold to consumers in the state of Washington directly
from Your online store;
- 19 (f) The number of units sold to consumers in the state of Washington from Your
affiliates (define somewhere);

20 **RESPONSE:** CXO objects to this Interrogatory because, as the Interrogatory
21 admits with the internal comment "(define somewhere)," the Interrogatory is vague as to
22 what is meant by "affiliates." CXO also objects to this Interrogatory on the ground that it
23

1 is overly broad and seeks information relating to general jurisdiction even though (1) the
2 Court's Order (ECF No. 60 at 4) specifically states that "Plaintiffs are only relying on
3 specific jurisdiction"; (2) Plaintiffs' counsel expressly disclaimed general jurisdiction at
4 the hearing on CXO's Motion to Dismiss; and (3) Plaintiffs do not allege general
5 jurisdiction in their Complaint. Subject to and without waiving the foregoing objections,
6 and subject to and without waiving CXO's general objections, CXO further responds to
7 each of the subparts (except subpart (f), which suffers from the "affiliate" problem
8 identified above) as follows:

- 9 (a) CXO further objects on the ground that this subpart calls for confidential and
10 commercially-sensitive information. Should the parties enter into an
11 agreement regarding treatment of confidential information, Defendant will
12 supplement with appropriately-designated information consistent with its
13 objections – specifically, it would provide the amount of sales of ad
14 "impressions" in connection with the specific article at issue from
15 [www.csoonline.com](http://www.csoonline.com/article/3176433/security/spammers-expose-their-entire-operation-through-bad-backups.html) – that is, the article located at
16 <http://www.csoonline.com/article/3176433/security/spammers-expose-their-entire-operation-through-bad-backups.html> (the "Ragan
17 Article"), and the amount thereof that was generated because of page views
18 from Washington.
- 19 (b) CXO is aware of no advertisements being sold to Washington-based
20 advertisers in connection with the Ragan Article.
- 21 (c) CXO markets its advertising capabilities on its website,
22 www.csoonline.com.
- 23 (d) CXO has no online store that sells advertising.

- (e) CXO has no online store that sells advertising. CXO also is aware of no advertisements being sold to Washington-based advertisers in connection with the Ragan Article.

INTERROGATORY NO. 4: Describe or list each article written by Steve Ragan that was published on the Salted Hash blog at <https://www.csoonline.com/blog/salted-hash-top-security-news>.

RESPONSE: CXO objects to this Interrogatory on the ground that it is overly broad and not limited in time. Subject to and without waiving CXO's general objections, pursuant to Rule 33(d) CXO elects, in lieu of providing a narrative answer, to produce a list of Ragan-authored articles from 2014 to November 9, 2017 from which the answer to this Interrogatory can be derived. CXO will supplement the list as necessary.

INTERROGATORY NO. 5: For each article described or listed in Interrogatory No. 4, provide the following information:

- (a) The number of views by visitors in the United States;
 - (b) The number of views by visitors in the state of Washington;
 - (c) The amount of ad revenue You earned for each article in total;
 - (d) The number of products You sold from users clicking on links shown while viewing the article;

RESPONSE: CXO objects to this Interrogatory on the ground that it seeks information regarding articles having nothing to do with this lawsuit, is overly broad, not relevant or proportional, and also seeks information regarding general jurisdiction, even though (1) the Court’s Order (ECF No. 60 at 4) specifically states that “Plaintiffs are only relying on specific jurisdiction”; (2) Plaintiffs’ counsel expressly disclaimed general jurisdiction at the hearing on CXO’s Motion to Dismiss; and (3) Plaintiffs do not allege general jurisdiction in their Complaint.

1 Subject to and without waiving the foregoing objections, and subject to and
2 without waiving CXO's general objections, CXO will further respond only with
3 respect to the Ragan Article as follows:

- 4 (a) CXO further objects on the ground that this subpart calls for confidential and
5 commercially-sensitive information. Should the parties enter into an
6 agreement regarding treatment of confidential information, Defendant will
7 supplement with appropriately-designated information consistent with its
8 objections – that is, the number of views of the Ragan Article by visitors in
9 the United States.
- 10 (b) CXO further objects on the ground that this subpart calls for confidential and
11 commercially-sensitive information. Should the parties enter into an
12 agreement regarding treatment of confidential information, Defendant will
13 supplement with appropriately-designated information consistent with its
14 objections – that is, the number of views of the Ragan Article by visitors
from Washington State.
- 15 (c) CXO further objects on the ground that this subpart calls for confidential and
16 commercially-sensitive information. Should the parties enter into an
17 agreement regarding treatment of confidential information, Defendant will
18 supplement with appropriately-designated information consistent with its
19 objections – that is, the amount of advertising revenue earned by CXO in
20 connection with the Ragan Article.
- 21 (d) CXO is aware of no sales of products as a result of users clicking on links
22 while viewing the Ragan Article.

23 Respectfully November 28, 2017.

s/Kevin J. Curtis, WSBA No. 12085
WINSTON & CASHATT, LAWYERS
601 W. Riverside, Ste. 1900
Spokane, WA 99201
(509) 838-6131
Facsimile: (509) 838-1416
E-mail Address: kjc@winstoncashatt.com

Charles L. Babcock IV (*admitted pro hac vice*)
cbabcock@jw.com
Texas Bar No. 01479500
William J. Stowe (*admitted pro hac vice*)
wstowe@jw.com
Texas Bar No. 24075124
JACKSON WALKER L.L.P.
1401 McKinney Street
Suite 1900
Houston, Texas 77010
(713) 752-4360 (telephone)
(713) 308-4116 (facsimile)

Attorneys for Defendants International Data Group, Inc., CXO Media, Inc. and Steve Ragan

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Winston & Cashatt
A PROFESSIONAL SERVICE CORPORATION
1900 Bank of America Financial Center
601 West Riverside
Spokane, Washington 99201
(509) 383-6131

CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury under the laws of the State of Washington that on the 28th day of November, 2017, at Spokane, Washington, the foregoing was caused to be served on the following person(s) in the manner indicated:

<p>Jason E. Bernstein Newman Du Wors LLP 2101 Fourth Avenue, Suite 1500 Seattle, WA 98121 <u>jake@newmanlaw.com</u></p>	<p>VIA REGULAR MAIL VIA CERTIFIED MAIL HAND DELIVERED BY FACSIMILE VIA EMAIL</p>	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<p>Leeor Neta Newman Du Wors LLP 600 California St., 11th Floor San Francisco, CA 94109 <u>leeor@newmanlaw.com</u></p>		
<p>Attorneys for Plaintiffs</p>		
<p>Christopher B. Durbin 1700 Seventh Avenue, Suite 1900 Seattle, WA 98101-1355 <u>cdurbin@cooley.com</u></p>	<p>VIA REGULAR MAIL VIA CERTIFIED MAIL HAND DELIVERED BY FACSIMILE VIA EMAIL</p>	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<p>Matthew D. Brown Amy M. Smith Cooley LLP 101 California Street, 5th Floor San Francisco, CA 94111-5800 <u>brownmd@cooley.com</u> <u>amsmith@cooley.com</u></p>		
<p>Attorneys for Defendant Kromtech Alliance Corporation</p>		

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Winston & Cashatt
A PROFESSIONAL SERVICE CORPORATION
1900 Bank of America Financial Center
601 West Riverside
Spokane, Washington 99201
(509) 638-6131

1	Aaron Rocke Rocke Law Group, PLLC 101 Yesler Way, Suite 603 Seattle, WA 98104 aaron@rockelaw.com	VIA REGULAR MAIL <input type="checkbox"/> VIA CERTIFIED MAIL <input checked="" type="checkbox"/> HAND DELIVERED <input type="checkbox"/> BY FACSIMILE <input type="checkbox"/> VIA EMAIL <input type="checkbox"/>
5	Attorney for Defendant Chris Vickery	

Janel Martindale
Janel Martindale

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Winston & Cashatt
A PROFESSIONAL SERVICE CORPORATION
1900 Bank of America Financial Center
601 West Riverside
Spokane, Washington 99201
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